

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re: CATHODE RAY TUBE (CRT))	Case No. C 07-5944 SC
ANTITRUST LITIGATION)	MDL No. 1917
This Document Relates to:)	<u>ORDER RE: SUPPLEMENTAL BRIEFING</u>
Tech Data Corp. v. Hitachi,)	
Ltd., No. 13-cv-00157)	

The Defendants' joint motion to dismiss, ECF No. 1992 ("MTD"), raises the issue of whether Tech Data's Florida complaint tolls a statute of limitations for Tech Data. The Court has not determined whether this is so, partly because the parties' opposition and reply briefs on the matter do not fully explain their positions. See ECF Nos. 2197 ("Tech Data Opp'n"), 2231 ("Reply"). The Court recognizes that this dispute may not be dispositive, given the parties' contentions regarding whether that particular complaint could toll any claim in this case, but the Court cannot make a fully reasoned holding on this point without more clarity from the parties.

Specifically, Tech Data's opposition brief refers to a Florida

1 complaint filed in 2007 in support of its tolling argument, but the
2 complaint they cite and include in their declaration is stamped
3 2011. See Opp'n at 8 (citing ECF No. 2198 ("Wagner Decl.") Ex.
4 9).¹ Obviously, these dates would provide vastly different tolling
5 calculations if the Court were to find them relevant at all.
6 Further, Defendants' reply brief suggests in a footnote that "even
7 if Tech Data did benefit from tolling based on the State of
8 Florida's complaint, it would have tolled the statute of
9 limitations for only 367 days, which still renders Tech Data's
10 [Florida Deceptive and Unfair Trade Practices ("FDUTPA")] claim
11 untimely." Reply at 12 n.11. The reply does not directly explain
12 how Defendants calculated this number: for example, it is important
13 for such a calculation to note the relevant complaint's filing
14 date, as well as the date tolling would end based on that complaint
15 (e.g., dismissal based on a stipulation, and whether the dismissal
16 should be calculated as of the Special Master's or the Court's
17 approval). Defendants cite, apparently by analogy, a different
18 section of the reply brief that concerns different parties and
19 different complaints.

20 Based on what the parties have presented on this issue, the
21 Court can make no decision on this aspect of the parties' dispute.
22 The result may or may not be relevant, but the Court ORDERS
23 Defendants and Tech Data to submit supplemental briefing on this
24 matter, clarifying the issues above (and any secondary issues that
25 may necessarily arise from those clarifications).

26 ¹ Tech Data also cites Florida Statutes section 501.07(1)(c) in
27 this part of their brief, but that section was repealed. The Court
28 assumes that Tech Data meant to cite Section 501.207(1)(c), but if
that assumption is wrong, Tech Data should cite the correct
statute.

1 Tech Data is to file a supplemental brief clarifying their
2 position and identifying the operative Florida complaint within ten
3 (10) days of this Order's signature date. Defendants are to
4 respond within seven (7) days of Tech Data's supplemental brief.
5 The parties' briefs are limited to five (5) pages.

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7 IT IS SO ORDERED.

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9 Dated: January 8, 2014



10 UNITED STATES DISTRICT JUDGE
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